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ABSTRACT

The Environmental Protection Agency's rule on local educational agency inspection for, and notification of, the presence of friable asbestos-containing material in school buildings included neither standards for the proper identification of asbestos-containing material and appropriate response actions with respect to friable asbestos-containing material, nor a requirement that response actions with respect to friable asbestos-containing material be carried out in a safe and complete manner once actions were found to be necessary. The purpose of this title is to: (1) provide for the establishment of federal regulations which require inspection for asbestos-containing material and implementation of appropriate response actions with respect to asbestos-containing material in the Nation's schools in a safe and complete manner; (2) mandate safe and complete periodic reinspection of school buildings following response actions, where appropriate; and (3) require the administrator to conduct a study to find out the extent of the danger to human health posed by asbestos in public and commercial buildings and the means to respond to any such danger. (CW)

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Public Law 99-519
99th Congress

An Act

To amend the Toxic Substances Control Act to require the Environmental Protection Agency to promulgate regulations requiring inspection for asbestos-containing material in the Nation's schools, development of asbestos management plans for such schools, response actions with respect to friable asbestos-containing material in such schools, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asbestos Hazard Emergency Response Act of 1986".

SEC. 2. AMENDMENT TO TOXIC SUBSTANCES CONTROL ACT.

The Toxic Substances Control Act is amended by adding at the end the following new title:

"TITLE II—ASBESTOS HAZARD EMERGENCY RESPONSE

"SEC. 201. CONGRESSIONAL FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds the following:

"(1) The Environmental Protection Agency's rule on local educational agency inspection for, and notification of, the presence of friable asbestos-containing material in school buildings includes neither standards for the proper identification of asbestos-containing material and appropriate response actions with respect to friable asbestos-containing material, nor a requirement that response actions with respect to friable asbestos-containing material be carried out in a safe and complete manner once actions are found to be necessary. As a result of the lack of regulatory guidance from the Environmental Protection Agency, some schools have not undertaken response action while many others have undertaken expensive projects without knowing if their action is necessary, adequate, or safe. Thus, the danger of exposure to asbestos continues to exist in schools, and some exposure actually may have increased due to the lack of Federal standards and improper response action.

"(2) There is no uniform program for accrediting persons involved in asbestos identification and abatement, nor are local educational agencies required to use accredited contractors for asbestos work.

"(3) The guidance provided by the Environmental Protection Agency in its 'Guidance for Controlling Asbestos-Containing Material in Buildings' is insufficient in detail to ensure adequate responses. Such guidance is intended to be used only until the regulations required by this title become effective.

"(4) Because there are no Federal standards whatsoever regulating daily exposure to asbestos in other public and commercial buildings, persons in addition to those comprising the Nation's school population may be exposed daily to asbestos.

"(b) PURPOSE.—The purpose of this title is—

"(1) to provide for the establishment of Federal regulations which require inspection for asbestos-containing material and implementation of appropriate response actions with respect to asbestos-containing material in the Nation's schools in a safe and complete manner;

"(2) to mandate safe and complete periodic reinspection of school buildings following response actions, where appropriate; and

"(3) to require the Administrator to conduct a study to find out the extent of the danger to human health posed by asbestos in public and commercial buildings and the means to respond to any such danger.

"SEC. 202. DEFINITIONS. 15 USC 2641

"For purposes of this title—

"(1) ACCREDITED ASBESTOS CONTRACTOR.—The term 'accredited asbestos contractor' means a person accredited pursuant to the provisions of section 206.

"(2) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(3) ASBESTOS.—The term 'asbestos' means asbestiform varieties of—

"(A) chrysotile (serpentine),
"(B) crocidolite (riebeckite),
"(C) amosite (cummingtonite-grunerite),
"(D) anthophyllite,
"(E) tremolite, or
"(F) actinolite.

"(4) ASBESTOS-CONTAINING MATERIAL.—The term 'asbestos-containing material' means any material which contains more than 1 percent asbestos by weight.

"(5) EPA GUIDANCE DOCUMENT.—The term 'Guidance for Controlling Asbestos-Containing Material in Buildings', means the Environmental Protection Agency document with such title as in effect on March 31, 1986.

"(6) FRIABLE ASBESTOS-CONTAINING MATERIAL.—The term 'friable asbestos-containing material' means any asbestos-containing material applied on ceilings, walls, structural members, piping, duct work, or any other part of a building which when dry may be crumbled, pulverized, or reduced to powder by hand pressure. The term includes non-friable asbestos-containing material after such previously non-friable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

"(7) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means—

"(A) any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381), 20 USC 2854

"(B) the owner of any private, nonprofit elementary or secondary school building, and

"(C) the governing authority of any school operated under the defense dependents' education system provided for

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under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

"(8) MOST CURRENT GUIDANCE DOCUMENT.—The term 'most current guidance document' means the Environmental Protection Agency's 'Guidance for Controlling Asbestos-Containing Material in Buildings' as modified by the Environmental Protection Agency after March 31, 1986.

"(9) NON-PROFIT ELEMENTARY OR SECONDARY SCHOOL.—The term 'non-profit elementary or secondary school' means any elementary or secondary school (as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854)) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(10) PUBLIC AND COMMERCIAL BUILDING.—The term 'public and commercial building' means any building which is not a school building, except that the term does not include any residential apartment building of fewer than 10 units.

"(11) RESPONSE ACTION.—The term 'response action' means methods that protect human health and the environment from asbestos-containing material. Such methods include methods described in chapters 3 and 5 of the Environmental Protection Agency's 'Guidance for Controlling Asbestos-Containing Materials in Buildings'.

"(12) SCHOOL.—The term 'school' means any elementary or secondary school as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854).

"(13) SCHOOL BUILDING.—The term 'school building' means—

"(A) any structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facility, or facility used for the preparation of food,

"(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education,

"(C) any other facility used for the instruction of students or for the administration of educational or research programs, and

"(D) any maintenance, storage, or utility facility, including any hallway, essential to the operation of any facility described in subparagraphs (A), (B), or (C).

"(14) STATE.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianas, the Trust Territory of the Pacific Islands, and the Virgin Islands.

"SEC. 203. EPA REGULATIONS.

"(a) IN GENERAL.—Within 360 days after the date of the enactment of this title, the Administrator shall promulgate regulations as described in subsections (b) through (i). With respect to regulations described in subsections (b), (c), (d), (e), (f), (g), and (i), the Administrator shall issue an advanced notice of proposed rulemaking within 60 days after the date of the enactment of this title, and shall propose regulations within 180 days after such date. Any regulation promulgated under this section must protect human health and the environment.

"(b) INSPECTION.—The Administrator shall promulgate regulations which prescribe procedures, including the use of personnel accredited under section 206(b) or 206(c) and laboratories accredited under section 206(d), for determining whether asbestos-containing material is present in a school building under the authority of a local educational agency. The regulations shall provide for the exclusion of any school building, or portion of a school building, if (1) an inspection of such school building (or portion) was completed before the effective date of the regulations, and (2) the inspection meets the procedures and other requirements of the regulations under this title or of the 'Guidance for Controlling Asbestos-Containing Materials in Buildings' (unless the Administrator determines that an inspection in accordance with the guidance document is inadequate). The regulations shall require inspection of any school building (or portion of a school building) that is not excluded by the preceding sentence.

"(c) CIRCUMSTANCES REQUIRING RESPONSE ACTIONS.—(1) The Administrator shall promulgate regulations which define the appropriate response action in a school building under the authority of a local educational agency in at least the following circumstances:

"(A) DAMAGE.—Circumstances in which friable asbestos-containing material or its covering is damaged, deteriorated, or delaminated.

"(B) SIGNIFICANT DAMAGE.—Circumstances in which friable asbestos-containing material or its covering is significantly damaged, deteriorated, or delaminated.

"(C) POTENTIAL DAMAGE.—Circumstances in which—

"(i) friable asbestos-containing material is in an area regularly used by building occupants, including maintenance personnel, in the course of their normal activities, and

"(ii) there is a reasonable likelihood that the material or its covering will become damaged, deteriorated, or delaminated.

"(D) POTENTIAL SIGNIFICANT DAMAGE.—Circumstances in which—

"(i) friable asbestos-containing material is in an area regularly used by building occupants, including maintenance personnel, in the course of their normal activities, and

"(ii) there is a reasonable likelihood that the material or its covering will become significantly damaged, deteriorated, or delaminated.

"(2) In promulgating such regulations, the Administrator shall consider and assess the value of various technologies intended to improve the decisionmaking process regarding response actions and the quality of any work that is deemed necessary, including air monitoring and chemical encapsulants.

"(d) RESPONSE ACTIONS—

Health and medical care

"(1) IN GENERAL.—The Administrator shall promulgate regulations describing a response action in a school building under the authority of a local educational agency, using the least burdensome methods which protect human health and the environment. In determining the least burdensome methods, the Administrator shall take into account local circumstances, including occupancy and use patterns within the school building and short- and long-term costs.

"(2) RESPONSE ACTION FOR DAMAGED ASBESTOS.—In the case of a response action for the circumstances described in subsection (c)(1)(A), methods for responding shall include methods identified in chapters 3 and 5 of the 'Guidance for Controlling Asbestos-Containing Material in Buildings'.

"(3) RESPONSE ACTION FOR SIGNIFICANTLY DAMAGED ASBESTOS.—In the case of a response action for the circumstances described in subsection (c)(1)(B), methods for responding shall include methods identified in chapter 5 of the 'Guidance for Controlling Asbestos-Containing Material in Buildings'.

"(4) RESPONSE ACTION FOR POTENTIALLY DAMAGED ASBESTOS.—In the case of a response action for the circumstances described in subsection (c)(1)(C), methods for responding shall include methods identified in chapters 3 and 5 of the 'Guidance for Controlling Asbestos-Containing Material in Buildings', unless preventive measures will eliminate the reasonable likelihood that the asbestos-containing material will become damaged, deteriorated, or delaminated.

"(5) RESPONSE ACTION FOR POTENTIALLY SIGNIFICANTLY DAMAGED ASBESTOS.—In the case of a response action for the circumstances described in subsection (c)(1)(D), methods for responding shall include methods identified in chapter 5 of the 'Guidance for Controlling Asbestos-Containing Material in Buildings', unless preventive measures will eliminate the reasonable likelihood that the asbestos-containing material will become significantly damaged, deteriorated, or delaminated.

"(6) PREVENTIVE MEASURES DEFINED.—For purposes of this section, the term 'preventive measures' means actions which eliminate the reasonable likelihood of asbestos-containing material becoming damaged, deteriorated, or delaminated, or significantly damaged deteriorated, or delaminated (as the case may be) or which protect human health and the environment.

"(e) IMPLEMENTATION.—The Administrator shall promulgate regulations requiring the implementation of response actions in school buildings under the authority of a local educational agency and, where appropriate, for the determination of when a response action is completed. Such regulations shall include standards for the education and protection of both workers and building occupants for the following phases of activity:

"(1) Inspection.

"(2) Response Action.

"(3) Post-response action, including any periodic reinspection of asbestos-containing material and long-term surveillance activity.

"(f) OPERATIONS AND MAINTENANCE.—The Administrator shall promulgate regulations to require implementation of an operations and maintenance and repair program as described in chapter 3 of the 'Guidance for Controlling Asbestos-Containing Materials in Buildings' for all friable asbestos-containing material in a school building under the authority of a local educational agency.

"(g) PERIODIC SURVEILLANCE.—The Administrator shall promulgate regulations to require the following:

"(1) An identification of the location of friable and non-friable asbestos in a school building under the authority of a local educational agency.

"(2) Provisions for surveillance and periodic reinspection of such friable and non-friable asbestos.

"(3) Provisions for education of school employees, including school service and maintenance personnel, about the location of and safety procedures with respect to such friable and non-friable asbestos. Education. Safety

"(h) TRANSPORTATION AND DISPOSAL.—The Administrator shall promulgate regulations which prescribe standards for transportation and disposal of asbestos-containing waste material to protect human health and the environment. Such regulations shall include such provisions related to the manner in which transportation vehicles are loaded and unloaded as will assure the physical integrity of containers of asbestos-containing waste material. Health and medical care

"(i) MANAGEMENT PLANS.—

"(1) IN GENERAL.—The Administrator shall promulgate regulations which require each local educational agency to develop an asbestos management plan for school buildings under its authority, to begin implementation of such plan within 990 days after the date of the enactment of this title, and to complete implementation of such plan in a timely fashion. The regulations shall require that each plan include the following elements, wherever relevant to the school building:

"(A) An inspection statement describing inspection and response action activities carried out before the date of the enactment of this title.

"(B) A description of the results of the inspection conducted pursuant to regulations under subsection (b), including a description of the specific areas inspected.

"(C) A detailed description of measures to be taken to respond to any friable asbestos-containing material pursuant to the regulations promulgated under subsections (c), (d), and (e), including the location or locations at which a response action will be taken, the method or methods of response action to be used, and a schedule for beginning and completing response actions.

"(D) A detailed description of any asbestos-containing material which remains in the school building once response actions are undertaken pursuant to the regulations promulgated under subsections (c), (d), and (e).

"(E) A plan for periodic reinspection and long-term surveillance activities developed pursuant to regulations promulgated under subsection (g), and a plan for operations and maintenance activities developed pursuant to regulations promulgated under subsection (f).

"(F) With respect to the person or persons who inspected for asbestos-containing material and who will design or carry out response actions with respect to the friable asbestos-containing material, one of the following statements:

"(i) If the State has adopted a contractor accreditation plan under section 206(b), a statement that the person (or persons) is accredited under such plan.

"(ii) A statement that the local educational agency used (or will use) persons who have been accredited by another State which has adopted a contractor accreditation plan under section 206(b) or is accredited pursuant to an Administrator-approved course under section 206(c).

"(G) A list of the laboratories that analyzed any bulk samples of asbestos-containing material found in the school

building or air samples taken to detect asbestos in the school building and a statement that each laboratory has been accredited pursuant to the accreditation program under section 206(d)

"(II) With respect to each consultant who contributed to the management plan, the name of the consultant and one of the following statements

"(i) If the State has adopted a contractor accreditation plan under section 206(b), a statement that the consultant is accredited under such plan

"(ii) A statement that the contractor is accredited by another State which has adopted a contractor accreditation plan under section 206(b) or is accredited pursuant to an Administrator-approved course under section 206(c).

"(II) An evaluation of resources needed to successfully complete response actions and carry out reinspection, surveillance, and operation and maintenance activities

"(2) STATEMENT BY CONTRACTOR.—A local educational agency may require each management plan to contain a statement signed by an accredited asbestos contractor that such contractor has prepared or assisted in the preparation of such plan, or has reviewed such plan, and that such plan is in compliance with the applicable regulations and standards promulgated or adopted pursuant to this section and other applicable provisions of law. Such a statement may not be signed by a contractor who, in addition to preparing or assisting in preparing the management plan, also implements (or will implement) the management plan.

"(3) WARNING LABELS.—(A) The regulations shall require that each local educational agency which has inspected for and discovered any asbestos-containing material with respect to a school building shall attach a warning label to any asbestos-containing material still in routine maintenance areas (such as boiler rooms) of the school building, including—

"(i) friable asbestos-containing material which was responded to by a means other than removal, and

"(ii) asbestos-containing material for which no response action was carried out.

"(B) The warning label shall read, in print which is readily visible because of large size or bright color, as follows: 'CAUTION: ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT.'

"(4) PLAN MAY BE SUBMITTED IN STAGES.—A local educational agency may submit a management plan in stages, with each submission of the agency covering only a portion of the school buildings under the agency's authority, if the agency determines that such action would expedite the identification and abatement of hazardous asbestos-containing material in the school buildings under the authority of the agency.

"(5) PUBLIC AVAILABILITY.—A copy of the management plan developed under the regulations shall be available in the administrative offices of the local educational agency for inspection by the public, including teachers, other school personnel, and parents. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such plan.

"(6) SUBMISSION TO STATE GOVERNOR.—Each plan developed under this subsection shall be submitted to the State Governor under section 205.

"(j) CHANGES IN REGULATIONS.—Changes may be made in the regulations promulgated under this section only by rule in accordance with section 553 of title 5, United States Code. Any such change must protect human health and the environment. Health and medical care

"(k) CHANGES IN GUIDANCE DOCUMENT.—Any change made in the 'Guidance for Controlling Asbestos-Containing Material in Buildings' shall be made only by rule in accordance with section 553 of title 5, United States Code, unless a regulation described in this section dealing with the same subject matter is in effect. Any such change must protect human health and the environment. Health and medical care

"(l) TREATMENT OF DEPARTMENT OF DEFENSE SCHOOLS.—

"(1) SECRETARY TO ACT IN LIEU OF GOVERNOR.—In the administration of this title, any function, duty, or other responsibility imposed on a Governor of a State shall be carried out by the Secretary of Defense with respect to any school operated under the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

"(2) REGULATIONS.—The Secretary of Defense, in cooperation with the Administrator, shall, to the extent feasible and consistent with the national security, take such action as may be necessary to provide for the identification, inspection, and management (including abatement) of asbestos in any building used by the Department of Defense as an overseas school for dependents of members of the Armed Forces. Such identification, inspection, and management (including abatement) shall, subject to the preceding sentence, be carried out in a manner comparable to the manner in which a local educational agency is required to carry out such activities with respect to a school building under this title. Defense and national security

"(m) WAIVER.—The Administrator, upon request by a Governor and after notice and comment and opportunity for a public hearing in the affected State, may waive some or all of the requirements of this section and section 204 with respect to such State if it has established and is implementing a program of asbestos inspection and management that contains requirements that are at least as stringent as the requirements of this section and section 204.

"SEC. 204. REQUIREMENTS IF EPA FAILS TO PROMULGATE REGULATIONS. 15 USC 2644

"(a) IN GENERAL.—

"(1) FAILURE TO PROMULGATE.—If the Administrator fails to promulgate within the prescribed period—

"(A) regulations described in section 203(b) (relating to inspection);

"(B) regulations described in section 203 (c), (d), (e), (f), (g), and (i) (relating to responding to asbestos); or

"(C) regulations described in section 203(b) (relating to transportation and disposal);

each local educational agency shall carry out the requirements described in this section in subsection (b); subsections (c), (d), and (e); or subsection (f); respectively, in accordance with the Environmental Protection Agency's most current guidance document.

"(2) STAY BY COURT.—If the Administrator has promulgated regulations described in paragraph (1) (A), (B), or (C) within the prescribed period, but the effective date of such regulations has been stayed by a court for a period of more than 30 days, a local educational agency shall carry out the pertinent requirements described in this subsection in accordance with the Environmental Protection Agency's most current guidance document.

"(3) EFFECTIVE PERIOD.—The requirements of this section shall be in effect until such time as the Administrator promulgates the pertinent regulations or until the stay is lifted (as the case may be).'.

"(b) INSPECTION.—(1) Except as provided in paragraph (2), the local educational agency, within 540 days after the date of the enactment of this title, shall conduct an inspection for asbestos-containing material, using personnel accredited under section 206(b) or 206(c) and laboratories accredited under section 206(d), in each school building under its authority.

"(2) The local educational agency may exclude from the inspection requirement in paragraph (1) any school building, or portion of a school building, if (A) an inspection of such school building (or portion) was completed before the date on which this section goes into effect, and (B) the inspection meets the inspection requirements of this section.

"(c) OPERATION AND MAINTENANCE.—The local educational agency shall, within 720 days after the date of the enactment of this title, develop and begin implementation of an operation and maintenance plan with respect to friable asbestos-containing material in a school building under its authority. Such plan shall provide for the education of school service and maintenance personnel about safety procedures with respect to asbestos-containing material, including friable asbestos-containing material.

"(d) MANAGEMENT PLAN.—

"(1) IN GENERAL.—The local educational agency shall—

"(A) develop a management plan for responding to asbestos-containing material in each school building under its authority and submit such plan to the Governor under section 205 within 810 days after the date of the enactment of this title,

"(B) begin implementation of such plan within 990 days after the date of the enactment of this title, and

"(C) complete implementation of such plan in a timely fashion.

"(2) PLAN REQUIREMENTS.—The management plan shall—

"(A) include the elements listed in section 203(i)(1), including an inspection statement as described in paragraph (3) of this section,

"(B) provide for the attachment of warning labels as described in section 203(i)(3),

"(C) be prepared in accordance with the most current guidance document,

"(D) meet the standard described in paragraph (4) for actions described in that paragraph, and

"(E) be submitted to the State Governor under section 205.

"(3) INSPECTION STATEMENT.—The local educational agency shall complete an inspection statement, covering activities carried out before the date of the enactment of this title, which meets the following requirements:

"(A) The statement shall include the following information:

"(i) The dates of inspection.

"(ii) The name, address, and qualifications of each inspector.

"(iii) A description of the specific areas inspected.

"(iv) A list of the laboratories that analyzed any bulk samples of asbestos-containing material or air samples of asbestos found in any school building and a statement describing the qualifications of each laboratory.

"(v) The results of the inspection.

"(B) The statement shall state whether any actions were taken with respect to any asbestos-containing material found to be present, including a specific reference to whether any actions were taken in the boiler room of the building. If any such action was taken, the following items of information shall be included in the statement:

"(i) The location or locations at which the action was taken.

"(ii) A description of the method of action.

"(iii) The qualifications of the persons who conducted the action.

"(4) STANDARD.—The ambient interior concentration of asbestos after the completion of actions described in the most current guidance document, other than the type of action described in sections 203(f) and subsection (c) of this section, shall not exceed the ambient exterior concentration, discounting any contribution from any local stationary source. Either a scanning electron microscope or a transmission electron microscope shall be used to determine the ambient interior concentration. In the absence of reliable measurements, the ambient exterior concentration shall be deemed to be—

"(A) less than 0.003 fibers per cubic centimeter if a scanning electron microscope is used, and

"(B) less than 0.005 fibers per cubic centimeter if a transmission electron microscope is used.

"(5) PUBLIC AVAILABILITY.—A copy of the management plan shall be available in the administrative offices of the local educational agency for inspection by the public, including teachers, other school personnel, and parents. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such plan.

"(e) BUILDING OCCUPANT PROTECTION.—The local educational agency shall provide for the protection of building occupants during each phase of activity described in this section.

"(f) TRANSPORTATION AND DISPOSAL.—The local educational agency shall provide for the transportation and disposal of asbestos in accordance with the most recent version of the Environmental Protection Agency's 'Asbestos Waste Management Guidance' (or any successor to such document).

"SEC. 205. SUBMISSION TO STATE GOVERNOR. 15 USC 2645

"(a) SUBMISSION.—Within 720 days after the date of the enactment of this title (or within 810 days if there are no regulations under section 203(i)), a local educational agency shall submit a manage

ment plan developed pursuant to regulations promulgated under section 203(i) (or under section 204(d) if there are no regulations) to the Governor of the State in which the local educational agency is located.

"(b) GOVERNOR REQUIREMENTS.—Within 360 days after the date of the enactment of this title, the Governor of each State—

"(1) shall notify local educational agencies in the State of where to submit their management plans under this section, and

"(2) may establish administrative procedures for reviewing management plans submitted under this section.

If the Governor establishes procedures under paragraph (2), the Governor shall designate to carry out the reviews those State officials who are responsible for implementing environmental protection or other public health programs, or with authority over asbestos programs, in the State.

"(c) MANAGEMENT PLAN REVIEW.—

"(1) REVIEW OF PLAN.—The Governor may disapprove a management plan within 90 days after the date of receipt of the plan if the plan—

"(A) does not conform with the regulations under section 203(i) (or with section 204(d) if there are no regulations),

"(B) does not assure that contractors who are accredited pursuant to this title will be used to carry out the plan, or

"(C) does not contain a response action schedule which is reasonable and timely, taking into account circumstances relevant to the speed at which the friable asbestos-containing material in the school buildings under the local educational agency's authority should be responded to, including human exposure to the asbestos while the friable asbestos-containing material remains in the school building, and the ability of the local educational agency to continue to provide educational services to the community.

"(2) REVISION OF PLAN.—If the State Governor disapproves a plan, the State Governor shall explain in writing to the local educational agency the reasons why the plan was disapproved and the changes that need to be made in the plan. Within 30 days after the date on which notice is received of disapproval of its plan, the local educational agency shall revise the plan to conform with the State Governor's suggested changes. The Governor may extend the 30-day period for not more than 90 days.

646 "SEC. 206. CONTRACTOR AND LABORATORY ACCREDITATION.

"(a) CONTRACTOR ACCREDITATION.—A person may not—

"(1) inspect for asbestos-containing material in a school building under the authority of a local educational agency,

"(2) prepare a management plan for such a school, or

"(3) design or conduct response actions, other than the type of action described in sections 203(f) and 204(c), with respect to friable asbestos-containing material in such a school,

unless such person is accredited by a State under subsection (b) or is accredited pursuant to an Administrator-approved course under subsection (c).

"(b) ACCREDITATION BY STATE.—

"(1) MODEL PLAN.—

"(A) PERSONS TO BE ACCREDITED.—Within 180 days after the date of the enactment of this title, the Administrator, in consultation with affected organizations, shall develop a model contractor accreditation plan for States to give accreditation to persons in the following categories:

"(i) Persons who inspect for asbestos-containing material in school buildings under the authority of a local educational agency.

"(ii) Persons who prepare management plans for such schools.

"(iii) Persons who design or carry out response actions, other than the type of action described in sections 203(f) and 204(c), with respect to friable asbestos-containing material in such schools.

"(B) PLAN REQUIREMENTS.—The plan shall include a requirement that any person in a category listed in paragraph (1) achieve a passing grade on an examination and participate in continuing education to stay informed about current asbestos inspection and response action technology. The examination shall demonstrate the knowledge of the person in areas that the Administrator prescribes as necessary and appropriate in each of the categories. Such examinations may include requirements for knowledge in the following areas: Education

"(i) Recognition of asbestos-containing material and its physical characteristics.

"(ii) Health hazards of asbestos and the relationship between asbestos exposure and disease.

"(iii) Assessing the risk of asbestos exposure through a knowledge of percentage weight of asbestos-containing material, friability, age, deterioration, location and accessibility of materials, and advantages and disadvantages of dry and wet response action methods.

"(iv) Respirators and their use, care, selection, degree of protection afforded, fitting, testing, and maintenance and cleaning procedures.

"(v) Appropriate work practices and control methods, including the use of high efficiency particle absolute vacuums, the use of amended water, and principles of negative air pressure equipment use and procedures.

"(vi) Preparing a work area for response action work, including isolating work areas to prevent bystander or public exposure to asbestos, decontamination procedures, and procedures for dismantling work areas after completion of work.

"(vii) Establishing emergency procedures to respond to sudden releases.

"(viii) Air monitoring requirements and procedures.

"(ix) Medical surveillance program requirements.

"(x) Proper asbestos waste transportation and disposal procedures.

"(xi) Housekeeping and personal hygiene practices, including the necessity of showers, and procedures to prevent asbestos exposure to an employee's family.

"(2) STATE ADOPTION OF PLAN.—Each State shall adopt a contractor accreditation plan at least as stringent as the model plan developed by the Administrator under paragraph (1), within 180 days after the commencement of the first regular session of the legislature of such State which convened follow-

ing the date on which the Administrator completes development of the model plan. In the case of a school operated under the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.), the Secretary of Defense shall adopt a contractor accreditation plan at least as stringent as that model.

"(c) ACCREDITATION BY ADMINISTRATOR-APPROVED COURSE.—

"(1) COURSE APPROVAL.—Within 180 days after the date of the enactment of this title, the Administrator shall ensure that any Environmental Protection Agency-approved asbestos training course is consistent with the model plan (including testing requirements) developed under subsection (b). A contractor may be accredited by taking and passing such a course.

"(2) TREATMENT OF PERSONS WITH PREVIOUS EPA ASBESTOS TRAINING.—A person who—

"(A) completed an Environmental Protection Agency-approved asbestos training course before the date of the enactment of this title, and

"(B) passed (or passes) an asbestos test either before or after the date of the enactment of this title,

may be accredited under paragraph (1) if the Administrator determines that the course and test are equivalent to the requirements of the model plan developed under subsection (b). If the Administrator so determines, the person shall be considered accredited for the purposes of this title until a date that is one year after the date on which the State in which such person is employed establishes an accreditation program pursuant to subsection (b).

"(3) LISTS OF COURSES.—The Administrator, in consultation with affected organizations, shall publish (and revise as necessary)—

"(A) a list of asbestos courses and tests in effect before the date of the enactment of this title which qualify for equivalency treatment under paragraph (2), and

"(B) a list of asbestos courses and tests which the Administrator determines under paragraph (1) are consistent with the model plan and which will qualify a contractor for accreditation under such paragraph.

"(d) LABORATORY ACCREDITATION.—(1) The Administrator shall provide for the development of an accreditation program for laboratories by the National Bureau of Standards in accordance with paragraph (2). The Administrator shall transfer such funds as are necessary to the National Bureau of Standards to carry out such program.

"(2) The National Bureau of Standards, upon request by the Administrator, shall, in consultation with affected organizations—

"(A) within 360 days after the date of the enactment of this title, develop an accreditation program for laboratories which conduct qualitative and semi-quantitative analyses of bulk samples of asbestos-containing material, and

"(B) within 720 days after the date of the enactment of this title, develop an accreditation program for laboratories which conduct analyses of air samples of asbestos from school buildings under the authority of a local educational agency.

"(3) A laboratory which plans to carry out any such analysis shall comply with the requirements of the accreditation program.

"(e) FINANCIAL ASSISTANCE CONTINGENT ON USE OF ACCREDITED PERSONS.—(1) A school which is an applicant for financial assistance under section 505 of the Asbestos School Hazard Abatement Act of 1984 (Public Law 98-377; 20 U.S.C. 4011 et seq.) is not eligible for such assistance unless the school, in carrying out the requirements of this title— 20 USC 4014

"(A) uses a person (or persons)—

"(i) who is accredited by a State which has adopted an accreditation plan based on the model plan developed under subsection (b), or

"(ii) who is accredited pursuant to an Administrator-approved course under subsection (c), and

"(B) uses a laboratory (or laboratories) which is accredited under the program developed under subsection (d).

"(2) This subsection shall apply to any financial assistance provided under the Asbestos School Hazard Abatement Act of 1984 for activities performed after the following dates:

"(A) In the case of activities performed by persons, after the date which is one year after the date of the enactment of this title.

"(B) In the case of activities performed by laboratories, after the date which is 180 days after the date on which a laboratory accreditation program is completed under subsection (d).

"SEC. 207. ENFORCEMENT. 15 USC 2647

"(a) PENALTIES.—Any local educational agency—

"(1) which fails to conduct an inspection pursuant to regulations under section 203(b) or under section 204(b),

"(2) which knowingly submits false information to the Governor regarding any inspection pursuant to regulations under section 203(i) or knowingly includes false information in any inspection statement under section 204(d)(3), or

"(3) which fails to develop a management plan pursuant to regulations under section 203(i) or under section 204(d),

is liable for a civil penalty of not more than $5,000 for each day during which the violation continues. Any civil penalty under this subsection shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected under section 16. For purposes of this subsection, a 'violation' means a failure to comply with respect to a single school building. The court shall order that any civil penalty collected under this subsection be used by the local educational agency for purposes of complying with this title. Any portion of a civil penalty remaining unspent after compliance by a local educational agency is completed shall be deposited into the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act of 1986. 15 USC 2615 Post, p. 2990

"(b) RELATIONSHIP TO TITLE I.—A local educational agency is not liable for any civil penalty under title I of this Act for failing or refusing to comply with any rule promulgated or order issued under this title. Post, p. 2989

"(c) ENFORCEMENT CONSIDERATIONS.—

"(1) In determining the amount of a civil penalty to be assessed under subsection (a) against a local educational agency, the Administrator shall consider—

"(A) the significance of the violation,

"(B) the culpability of the violator, including any history of previous violations under this Act;

"(C) the ability of the violator to pay the penalty; and

"(D) the ability of the violator to continue to provide educational services to the community.

"(2) Any action ordered by a court in fashioning relief under section 20 shall be consistent with regulations promulgated under section 203 (or with the requirements of section 204 if there are no regulations).

"(d) CITIZEN COMPLAINTS.—Any person may file a complaint with the Administrator or with the Governor of the State in which the school building is located with respect to asbestos-containing material in a school building. If the Administrator or Governor receives a complaint under this subsection containing allegations which provide a reasonable basis to believe that a violation of this Act has occurred, the Administrator or Governor shall investigate and respond (including taking enforcement action where appropriate) to the complaint within a reasonable period of time.

"(e) CITIZEN PETITIONS.—(1) Any person may petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal of a regulation or order under this title.

"(2) Such petition shall be filed in the principal office of the Administrator and shall set forth the facts which it is claimed establish that it is necessary to issue, amend, or repeal a regulation or order under this title.

"(3) The Administrator may hold a public hearing or may conduct such investigation or proceeding as the Administrator deems appropriate in order to determine whether or not such petition should be granted.

"(4) Within 90 days after filing of a petition described in paragraph (1), the Administrator shall either grant or deny the petition. If the Administrator grants such petition, the Administrator shall promptly commence an appropriate proceeding in accordance with this title. If the Administrator denies such petition, the Administrator shall publish in the Federal Register the Administrator's reasons for such denial. The granting or denial of a petition under this subsection shall not affect any deadline or other requirement of this title.

"(f) CITIZEN CIVIL ACTIONS WITH RESPECT TO EPA REGULATIONS.—(1) Any person may commence a civil action without prior notice against the Administrator to compel the Administrator to meet the deadlines in section 203 for issuing advanced notices of proposed rulemaking, proposing regulations, and promulgating regulations. Any such action shall be brought in the district court of the United States for the District of Columbia.

"(2) In any action brought under paragraph (1) in which the court finds the Administrator to be in violation of any deadline in section 203, the court shall set forth a schedule for promulgating the regulations required by section 203 and shall order the Administrator to comply with such schedule. The court may extend any deadline (which has not already occurred) in section 204(b), 204(c), or 204(d) for a period of not more than 6 months, if the court-ordered schedule will result in final promulgation of the pertinent regulations within the extended period. Such deadline extensions may not be granted by the court beginning 720 days after the date of enactment of this title.

"(3) Section 20 of this Act shall apply to civil actions described in this subsection, except to the extent inconsistent with this subsection.

"SEC. 208. EMERGENCY AUTHORITY.

"(a) EMERGENCY ACTION.—

"(1) AUTHORITY.—Whenever—

"(A) the presence of airborne asbestos or the condition of friable asbestos-containing material in a school building governed by a local educational agency poses an imminent and substantial endangerment to human health or the environment, and

"(B) the local educational agency is not taking sufficient action (as determined by the Administrator or the Governor) to respond to the airborne asbestos or friable asbestos-containing material,

the Administrator or the Governor of a State is authorized to act to protect human health or the environment.

"(2) LIMITATIONS ON GOVERNOR ACTION.—The Governor of a State shall notify the Administrator within a reasonable period of time before the Governor plans to take an emergency action under this subsection. After such notification, if the Administrator takes an emergency action with respect to the same hazard, the Governor may not carry out (or continue to carry out, if the action has been started) the emergency action.

"(3) NOTIFICATION.—The following notification shall be provided before an emergency action is taken under this subsection:

"(A) In the case of a Governor taking the action, the Governor shall notify the local educational agency concerned.

"(B) In the case of the Administrator taking the action, the Administrator shall notify both the local educational agency concerned and the Governor of the State in which such agency is located.

"(4) COST RECOVERY.—The Administrator or the Governor of a State may seek reimbursement for all costs of an emergency action taken under this subsection in the United States District Court for the District of Columbia or for the district in which the emergency action occurred. In any action seeking reimbursement from a local educational agency, the action shall be brought in the United States District Court for the district in which the local educational agency is located.

"(b) INJUNCTIVE RELIEF.—Upon receipt of evidence that the presence of airborne asbestos or the condition of friable asbestos-containing material in a school building governed by a local educational agency poses an imminent and substantial endangerment to human health or the environment—

"(1) the Administrator may request the Attorney General to bring suit, or

"(2) the Governor of a State may bring suit,

to secure such relief as may be necessary to respond to the hazard. The district court of the United States in the district in which the response will be carried out shall have jurisdiction to grant such relief, including injunctive relief.

"SEC. 209. STATE AND FEDERAL LAW.

"(a) NO PREEMPTION.—Nothing in this title shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common.

"(b) COST AND DAMAGE AWARDS.—Nothing in this title or any standard, regulation, or requirement promulgated pursuant to this title shall be construed or interpreted to preclude any court from awarding costs and damages associated with the abatement, including the removal, of asbestos-containing material, or a portion of such costs, at any time prior to the actual date on which such material is removed.

"(c) STATE MAY ESTABLISH MORE REQUIREMENTS.—Nothing in this title shall be construed or interpreted as preempting a State from establishing any additional liability or more stringent requirements with respect to asbestos in school buildings within such State.

"(d) NO FEDERAL CAUSE OF ACTION.—Nothing in this title creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(e) INTENT OF CONGRESS.—It is not the intent of Congress that this title or rules, regulations, or orders issued pursuant to this title be interpreted as influencing, in either the plaintiff's or defendant's favor, the disposition of any civil action for damages relating to asbestos. This subsection does not affect the authority of any court to make a determination in an adjudicatory proceeding under applicable State law with respect to the admission into evidence or any other use of this title or rules, regulations, or orders issued pursuant to this title.

"SEC. 210. ASBESTOS CONTRACTORS AND LOCAL EDUCATIONAL AGENCIES.

"(a) STUDY.—

"(1) GENERAL REQUIREMENT.—The Administrator shall conduct a study on the availability of liability insurance and other forms of assurance against financial loss which are available to local educational agencies and asbestos contractors with respect to actions required under this title. Such study shall examine the following:

"(A) The extent to which liability insurance and other forms of assurance against financial loss are available to local educational agencies and asbestos contractors.

"(B) The extent to which the cost of insurance or other forms of assurance against financial loss has increased and the extent to which coverage has become less complete.

"(C) The extent to which any limitation in the availability of insurance or other forms of assurance against financial loss is the result of factors other than standards of liability in applicable law.

"(D) The extent to which the existence of the regulations required by subsections (c) and (d) of section 203 and the accreditation of contractors under section 206 has affected the availability or cost of insurance or other forms of assurance against financial loss.

"(E) The extent to which any limitation on the availability of insurance or other forms of assurance against financial loss is inhibiting inspections for asbestos-containing material or the development or implementation of management plans under this title.

"(F) Identification of any other impediments to the timely completion of inspections or the development and implementation of management plans under this title.

"(2) INTERIM REPORT.—Not later than April 1, 1988, the Administrator shall submit to the Congress an interim report on the progress of the study required by this subsection, along with preliminary findings based on information collected to that date.

"(3) FINAL REPORT.—Not later than October 1, 1990, the Administrator shall submit to the Congress a final report on the study required by this subsection, including final findings based on the information collected.

"(b) STATE ACTION.—On the basis of the interim report or the final report of the study required by subsection (a), a State may enact or amend State law to establish or modify a standard of liability for local educational agencies or asbestos contractors with respect to actions required under this title.

"SEC. 211. PUBLIC PROTECTION.

Discrimination, prohibition 15 USC 2651

"(a) PUBLIC PROTECTION.—No State or local educational agency may discriminate against a person in any way, including firing a person who is an employee, because the person provided information relating to a potential violation of this title to any other person, including a State or the Federal Government.

"(b) LABOR DEPARTMENT REVIEW.—Any public or private employee or representative of employees who believes he or she has been fired or otherwise discriminated against in violation of subsection (a) may within 90 days after the alleged violation occurs apply to the Secretary of Labor for a review of the firing or alleged discrimination. The review shall be conducted in accordance with section 11(c) of the Occupational Safety and Health Act 29 USC 660

"SEC. 212. ASBESTOS OMBUDSMAN. 15 USC 2642

"(a) APPOINTMENT.—The Administrator shall appoint an Asbestos Ombudsman, who shall carry out the duties described in subsection (b).

"(b) DUTIES.—The duties of the Asbestos Ombudsman are—

"(1) to receive complaints, grievances, and requests for information submitted by any person with respect to any aspect of this title,

"(2) to render assistance with respect to the complaints, grievances, and requests received, and

"(3) to make such recommendations to the Administrator as the Ombudsman considers appropriate.

"SEC. 213. EPA STUDY OF ASBESTOS-CONTAINING MATERIAL IN PUBLIC BUILDINGS. 15 USC 2643

"Within 360 days after the date of the enactment of this title, the Administrator shall conduct and submit to the Congress the results of a study which shall—

"(1) assess the extent to which asbestos-containing materials are present in public and commercial buildings;

"(2) assess the condition of asbestos-containing material in commercial buildings and the likelihood that persons occupying such buildings, including service and maintenance personnel, are, or may be, exposed to asbestos fibers,

"(3) consider and report on whether public and commercial buildings should be subject to the same inspection and response action requirements that apply to school buildings,

"(4) assess whether existing Federal regulations adequately protect the general public, particularly abatement personnel, from exposure to asbestos during renovation and demolition of such buildings; and

"(5) include recommendations that explicitly address whether there is a need to establish standards for, and regulate asbestos exposure in, public and commercial buildings

"SEC 214 TRANSITION RULES

"Any regulation of the Environmental Protection Agency under title I which is inconsistent with this title shall not be in effect after the date of the enactment of this title. Any advanced notice of proposed rulemaking, any proposed rule, and any regulation of the Environmental Protection Agency in effect before the date of the enactment of this title which is consistent with the regulations required under section 203 shall remain in effect and may be used to meet the requirements of section 203, except that any such regulation shall be enforced under this Act".

SEC 3 TECHNICAL AND CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENT TO ASBESTOS SCHOOL HAZARD ABATEMENT ACT.—Section 505(g) of the Asbestos School Hazard Abatement Act of 1984 (Public Law 98-377; 20 U.S.C. 4011 et seq.) is amended by adding at the end the following new paragraph:

"(4)(A) No financial assistance may be provided under this section to any school—

"(i) which uses any person who has not been accredited pursuant to section 206(b) or 206(c) of the Toxic Substances Control Act, to carry out activities described in section 206(a) of that Act, or

"(ii) which uses any laboratory which has not been accredited pursuant to section 206(d) of the Toxic Substances Control Act, to carry out activities described in such section.

"(B) This paragraph shall apply to any financial assistance provided under this section after the date of the enactment of the Asbestos Hazard Emergency Response Act of 1986, for activities performed after the following dates:

"(i) In the case of activities performed by persons, after the date which is one year after the date of the enactment of this title.

"(ii) In the case of activities performed by laboratories, after the date which is 180 days after the date on which a laboratory accreditation program is completed under subsection (d)."

(b) CONFORMING AMENDMENTS TO TOXIC SUBSTANCES CONTROL ACT —

(1) Section 15 of the Toxic Substances Control Act (15 U S C 2614) is amended in paragraph (1)—

(A) by striking out "or" before "(C)",

(B) by striking out the semicolon and inserting in lieu thereof a comma, and

(C) by adding at the end of such paragraph the following "or (D) any requirement of title II or any rule promulgated or order issued under title II,"

(2) Section 19 of such Act (15 U.S.C. 2618) is amended in subsection (a)(1)(A) by inserting after "or 8," the following: "or under title II,".

(3) Section 20 of such Act (15 U.S.C. 2619) is amended in subsection (a)(1) by striking out "4, 5, or 6 or order issued under section 5" and inserting in lieu thereof the following: "4, 5, or 6, or title II, or order issued under section 5 or title II"

(c) TECHNICAL AMENDMENTS.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended—

(1) by inserting immediately before section 1 the following:

"TITLE I—CONTROL OF TOXIC SUBSTANCES";

(2) by inserting in the table of contents in section 1, immediately before the item relating to section 1, the following:

"TITLE I—CONTROL OF TOXIC SUBSTANCES";

and

(3) by adding at the end of the table of contents in section 1 the following:

"TITLE II—ASBESTOS HAZARD EMERGENCY RESPONSE

"Sec. 201. Congressional findings and purpose
"Sec. 202. Definitions
"Sec. 203. EPA Regulations
"Sec. 204. Requirements if EPA fails to promulgate regulations
"Sec. 205. Submission to State Governor.
"Sec. 206. Contractor and laboratory accreditation
"Sec. 207. Enforcement
"Sec. 208. Emergency authority
"Sec. 209. State and Federal law
"Sec. 210. Asbestos contractors and local educational agencies
"Sec. 211. Public protection
"Sec. 212. Asbestos ombudsman.
"Sec. 213. EPA study of asbestos-containing material in public buildings
"Sec. 214. Transition rules."

SEC. 4. AUTHORIZATION. 20 USC 4021

(a) Section 512 of the Asbestos School Hazard Abatement Act of 1984 (Public Law 98-377; 20 U.S.C. 4011 et seq.) is amended by adding at the end the following: "In addition, for such purposes there are authorized to be appropriated out of the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act of 1986 $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.". Grants 20 USC 4014

(b)(1) Notwithstanding section 505(c) of the Asbestos School Hazard Abatement Act of 1984, for fiscal years 1988 and 1989 the Administrator shall provide financial assistance under section 505 of such Act in the form of grants to States or local educational agencies to carry out inspections for asbestos-containing material in school buildings and preparation of management plans for school buildings under this title. 20 USC 4014 note

(2) Not more than 2 percent of any grant awarded to a State pursuant to paragraph (1) may be used by the State for administrative purposes For purposes of the preceding sentence, administrative purposes do not include salaries of persons who inspect for asbestos-containing material or assist in the preparation of management plans Wages

(3) In determining which local educational agencies to approve grants for, the Administrator shall take into account the financial need of the agency. Of the amount available under the Asbestos School Hazard Abatement Act of 1984 for fiscal years 1988 and 1989, not more than 10 percent may be obligated for the purposes described in this subsection.

20 USC 4011

20 USC 4022

SEC. 5. ASBESTOS TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Asbestos Trust Fund", consisting of such amounts as may be transferred or credited to such Trust Fund as provided in this section.

(b) TRANSFERS TO TRUST FUND.—

(1) TRANSFER.—There are hereby transferred to the Asbestos Trust Fund amounts equivalent to—

(A) amounts received in the Treasury on or after January 1, 1987, as repayments of loans made under section 505 of the Asbestos School Hazard Abatement Act of 1984 (Public Law 98-377; 20 U.S.C. 4011 et seq.) as in effect on the date of the enactment of this Act, and

20 USC 4014

(B) amounts received as deposits from local educational agencies under section 207(a) of the Toxic Substances Control Act (as added by section 2 of this Act).

(2) MONTHLY TRANSFERS.—The amounts transferred by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Asbestos Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such paragraph. Adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were more or less than the amounts required to be transferred.

(c) MANAGEMENT OF TRUST FUND.—

(1) INVESTMENT.—

(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Asbestos Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States and may be acquired—

(i) on original issue at the issue price, or

(ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Asbestos Trust Fund may be sold by the Secretary of the Treasury at the market price.

(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Asbestos Trust Fund shall be credited to and form a part of the Trust Fund.

(2) REPORT.—It shall be the duty of the Secretary of the Treasury to hold the Asbestos Trust Fund and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next 5 fiscal years.

(d) EXPENDITURES FROM ASBESTOS TRUST FUND.—Amounts in the Asbestos Trust Fund shall be available, as provided by appropriation Acts, only for purposes of carrying out the Asbestos Hazards Abatement Assistance Program under section 505 of the Asbestos School

Hazard Abatement Act of 1984 as in effect on the date of the enactment of this Act.

20 USC 4014

(e) AUTHORITY TO BORROW.—

(1) IN GENERAL.—There are authorized to be appropriated to the Asbestos Trust Fund, as repayable advances, $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.

Appropriation authorization.

(2) REPAYMENT OF ADVANCES.—

(A) IN GENERAL.—Advances made under this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Asbestos Trust Fund.

(B) RATE OF INTEREST.—Interest on advances made under this subsection shall be at a rate determined by the Secretary (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

Approved October 22, 1986

LEGISLATIVE HISTORY—H.R. 5073 (S. 2083):

HOUSE REPORTS: No. 99-763 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 99-427 accompanying S. 2083 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, considered and passed House.
Sept. 10, considered and passed Senate, amended.
Oct. 1, House concurred in Senate amendment with an amendment.
Oct. 3, Senate concurred in House amendment.